

REMARKS

In this response, no additional claims are cancelled and no new claims have been added. Thus, claims 1, 3-6, 8-19, and 23-29 remain pending in this application. The Office Action issued by the Examiner has been carefully considered.

Claim 19 has been amended to correct a minor typographical error in that the word “assigning” was inadvertently not deleted in the prior amendment.

REJECTIONS UNDER 35 U.S.C. § 103

Applicant first here discusses rejected independent claim 26. The other rejected claims are addressed further below.

Applicant’s independent claim 26 recites a method “to create an on-line shopping mall for a subordinate entity and to track referrals from the shopping mall.” In creating this shopping mall, a new computer network directory is created from a portion of “a plurality of providers originally associated with the master entity.” The Examiner has made various claim rejections using Poulsen in view of Vittal. Poulsen was added as a new primary reference after Applicant asserted in the prior response that Vittal did not teach or suggest any “providers originally associated with the master entity.”

However, the new Poulsen reference itself has several significant deficiencies, many of them noted by the Examiner in this office action. In particular, per the Examiner’s observation, “Poulsen does not explicitly disclose referring potential customers.” Further, again per the Examiner, “Poulsen does not explicitly disclose [an] online shopping environment and making a purchase.” Thus, the Examiner is basing a prima facie argument of obviousness on a primary reference that the Examiner agrees does not relate in any way to shopping. Necessarily, a person

skilled in the art will look solely to Vittal for any teachings regarding a claim limitation associated with shopping.

Claim 26 further recites an “identifier embedded into each link [to each provider] to identify the subordinate entity” and “tracking referrals from the shopping mall using the identifier.” The Examiner asserts that it would be obvious to modify Poulsen for a shopping mall as taught by Vittal. However, such a modification would simply be inoperative as regards Applicant’s claim 26, as discussed below.

First, the Examiner cites Poulsen as teaching an embedded identifier (citing 4:54-61). Here, Poulsen teaches the use of a subscriber id 301 to identify seed data associated with a particular user’s customization of a portal web site. Poulsen states that the “subscriber id 301 is a unique identifier associated with each portal web site.” Poulsen further describes storing the “subscriber id 301 with the copied seed data in the portal schema” (7:60-64). However, the only use that Poulsen describes for the subscriber id 301 is to restrict user access “such that a user may only access data in the portal schema pertinent to the user’s portal web site.” (8:12-19).

The Examiner agrees, as mentioned above, that “Poulsen does not explicitly disclose referring potential customers.” Thus, as Poulsen only teaches using a subscriber id for access control, there could be no suggestion by Poulsen to a person skilled in the art to use the subscriber id for referral tracking as Poulsen does not contemplate referring customers. Therefore, only the teachings of Vittal would be relied upon by the person of ordinary skill for any teaching regarding the referring of potential customers.

Poulsen only teaches that a user may customize a portal web site, and the web site will be identified by a subscriber id for future access by the user. Vittal, as established in Applicant’s prior response, only teaches that a merchant can make the merchant’s preexisting catalog items available on an aggregator’s web site. If Poulsen were modified for a shopping mall as taught by Vittal, then the combination would merely associate a merchant’s preexisting catalog items with the merchant’s user subscriber id. Thus, the combination of Poulsen and Vittal would fail to operatively enable any tracking of referrals to providers “originally associated with master

entity.” Instead, this combination would at most provide tracking of referrals to the merchant’s preexisting providers. This simply does not make claim 26 obvious.

Furthermore, a patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. KSR Int’l Co. v. Teleflex, 127 S.Ct. 1727, 1741 (2007). A fact finder should be aware of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning. Id. at 1742. In determining whether a claimed invention is an obvious combination of prior art references, it must be shown there is an apparent reason to combine the known elements in the fashion claimed. Id. at 1741.

Because, as mentioned above, Poulsen does not contemplate any shopping activity, a person skilled in the art would look to Vittal as to any use of a subscriber id in a shopping context. Yet, Vittal clearly teaches away from Applicant’s claim 26 in that Vittal says to use only the merchant’s preexisting providers. **Nowhere does Vittal or Poulsen give any suggestion to use providers of goods or services originally associated with a master entity, to embed a user identifier into each of a plurality of links of these providers, and then to track referrals to these originally-associated providers.**

A person skilled in the art would not be led to make any combination of Poulsen or Vittal to associate originally-associated providers with a tracking identifier. This goes directly against the teachings of Vittal (and recalling that Poulsen, as the Examiner agrees, offers no teachings regarding shopping or tracking of shoppers). Accordingly, Applicant respectfully submits that this obviousness rejection of claim 26 should be withdrawn.

A. Claims 1, 3-6, 8, 9, 14-19, 23-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poulsen (US Patent No. 7,062,511) (herein referred to as “Poulsen”) in view of Vittal et al. (US Patent No. 6,907,401) (herein referred to as “Vittal”).

Applicant's independent claim 1 recites "embedding an identifier corresponding to the subordinate entity into at least a portion of the new computer network directory [of providers originally associated with a master entity]." As discussed above, Poulsen only discusses using a subscriber id to restrict access of a user to that user's customized portal web site, and Poulsen does not contemplate shopping. So, any combination of Poulsen and Vittal would at most result in a subscriber identifier being embedded into a directory of preexisting providers of the user as taught by Vittal. A person skilled in the art would have no reason to go against the clear teachings of Vittal, which teaches away from Applicant's claim 1 limitation of providers originally associated with a master entity. Accordingly, this rejection of claim 1 should respectfully be withdrawn.

Applicant's independent claim 18 recites that the "customization model comprises at least one selection from a plurality of pre-designed templates suitable for building the shopping mall." Because Poulsen does not teach a shopping mall, a person skilled in the art will look to Vittal's teachings regarding building a shopping mall.

Claim 18 further recites, similarly as for claim 1 above, to "embed an identifier corresponding to the subordinate entity into at least a portion of the new computer network directory [of providers originally associated with a master entity]." Yet, to the person skilled in the art, Vittal only teaches to use an identifier with preexisting providers of the user, not providers originally associated with a master entity (such as, e.g., the aggregator). This teaches away from claim 18. Accordingly, this rejection of claim 18 should also respectfully be withdrawn.

Applicant's independent claims 19 and 23 are believed allowable at least for similar reasons as discussed above for claims 1, 18, and 26. Applicant's rejected independent claim 26 was discussed in detail above.

Applicant's dependent claim 27 recites "a plurality of product categories." The Examiner states that "Poulsen does not explicitly disclose product categories," but the Examiner cites Vittal at 8:43-45 as teaching this limitation. However, Vittal here only teaches the selection of a

pricing option to be disclosed to a user when shopping. Claim 27 further recites using the product categories as “inputs for the customization model [to create a new directory of originally associated providers].” Vittal does not teach or suggest that this pricing option bears any relationship to the selection of providers to be included in a new directory. Further, there is no reason that Vittal would suggest such a usage since Vittal teaches that the merchant itself provides the catalog items that are to be included in the aggregator website.

There is no reason that a person of ordinary skill in the art would consider using a pricing option to select providers for catalog items because in Vittal the merchant itself has already selected the providers for the web site. **In contrast, Applicant’s claim 27 recites using a selection of product categories to select a subset of providers originally associated with the master entity.** Certainly, this is not shown or suggested by Poulsen or Vittal, alone or in combination. Accordingly, this rejection of claim 27 should respectfully be withdrawn.

B. Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Poulsen-Vittal and further in view of Feathers et al. (US Application Publication No. 20020055933) (“Feathers”).

Applicant’s claims 10-13 each depend, directly or indirectly, from independent claim 1, and are believed allowable at least for the reasons discussed above. Feathers does not remedy the deficiencies of Poulsen or Vittal.

CONCLUSION

Applicant’s other claims not explicitly discussed above depend, directly or indirectly, from one of Applicant’s independent claims discussed above, and are believed allowable for at least the respective reasons discussed above.

In view of the above, Applicant respectfully requests the reconsideration of this application and the allowance of all pending claims. It is respectfully submitted that the Examiner's rejections have been successfully traversed and that the application is now in order for allowance. Applicant believes that the Examiner's other arguments not discussed above are moot in light of the above arguments, but reserves the right to later address these arguments. Accordingly, reconsideration of the application and allowance thereof is courteously solicited.

The Commissioner is authorized to charge any additional fees associated with this filing, or credit any overpayment, to Deposit Account No. 50-2638. If an extension of time is required, this should be considered a petition therefor.

Respectfully submitted,

Date: March 16, 2009

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